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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

40972

FILE: B-174899

DATE: July 24, 1974

MATTER OF: Land-Air, Inc. 137-25

- DIGEST:**
1. Fact that BCA decisions may require Government to pay contractor an amount in excess of procurement costs assessed by the Government pursuant to a separate defaulted contract covering same time period, provides no basis for relieving such contractor from contract requirement for payment of interest on amounts due the Government. Standards in ASPR E-619.2 for interest reduction apply only where contractor indebtedness and Government-caused delay in payment occur in connection with the same contract.
 2. Where contracts contain no clause allowing interest payment due to Government delay in payment, no interest can be charged on amounts owing. 51 Comp. Gen. 251 (1971).

Land-Air Enterprises has questioned whether it should be charged interest on an amount it owes the Government for excess procurement costs under a contract which was terminated for default. The firm states that the Government owes it an amount in excess of the assessed procurement costs as a result of decisions by the Armed Services Board of Contract Appeals ³⁰⁰ under other contracts covering the same time period as the defaulted one. Land-Air contends that in such circumstances it is unfair for the Government to require it to pay interest, citing Armed Services Procurement Regulation (ASPR) E-619.2 in support of its position. This ASPR provision states in pertinent part:

"E-619.2 Contract Interest Reduction Standards.
In arriving at an amount by which interest accruing on indebtedness under a contract should be reduced, as provided by E-619, the contract financing office should endeavor to attain a fair and equitable result, in the light of the circumstances of each case. In so doing, it should take into account the instances, if any, in which it is considered by that office that there has been undue delay by the Government in

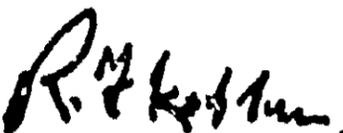
the making of payments earned by the contractor and payable to contractor on the same contract, after proper billing by the contractor. * * *"
(Emphasis added.)

Generally, Government contracts require the payment of interest on all amounts that become payable by the contractor to the Government, unless paid within 30 days, subject to adjustments as provided by part 6 of appendix E of the ASPR, ASPR E-620. Moreover, if a contractor is allowed to defer payments due the Government, the payment of interest is required pursuant to ASPR E-615.

It is clear that the interest reduction standards in ASPR E-619.2 are inapplicable to the present situation since they apply only where the contractor indebtedness and Government-caused delay in payment occur in connection with the same contract. Here we are dealing with three separate and distinct contracts, and although Land-Air asserts that all three contracts cover the same basic time span, there is no provision in part 6 of appendix E for adjustments because of payments due from the Government under other contracts with Land-Air.

We note that both contracts for which payment is owed by the Government were entered into before the Government adopted contract provisions for interest on payment delays by the Government (ASPR 1-333). Since the two contracts do not contain such a provision, there is no basis for paying interest on amounts owed by the Government. 51 Comp. Gen. 251 (1971).

For the above reasons, Land-Air's request for relief is denied.


Deputy Comptroller General
of the United States